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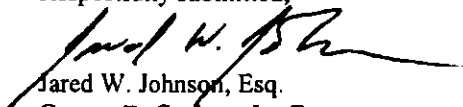
November 20, 2000

Hon. David Boergers, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426Re: *Avista Corporation, et al.;*  
Docket Nos. RT01-35-000 and RT01-15-000 (not consolidated)

Dear Secretary Boergers:

Enclosed for filing in the above-referenced proceedings are an original and fourteen copies of the Motion to Intervene and Protest of TransAlta Corporation. Please note that this filing is being made concurrently in each of the two, non-consolidated, dockets listed above: RT01-35-000, and RT01-15-000. Please date-stamp the additional copies for our records.

Respectfully submitted,

  
Jared W. Johnson, Esq.  
George D. Cannon, Jr., Esq.  
of LATHAM & WATKINS

Counsel for TransAlta Corporation

cc: Service List

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FEDERAL ENERGY

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Avista Corporation )  
 Bonneville Power Administration )  
 Idaho Power Company )  
 The Montana Power Company )  
 Nevada Power Company )  
 PacifiCorp )  
 Portland General Electric Company )  
 Puget Sound Energy, Inc. )  
 Sierra Pacific Power Company )

Docket No. RT01-35-000

Avista Corporation )  
 The Montana Power Company )  
 Nevada Power Company )  
 Portland General Electric Company )  
 Puget Sound Energy, Inc. )  
 Sierra Pacific Power Company )

Docket No. RT01-15-000  
 (not consolidated)

**MOTION TO INTERVENE AND PROTEST**  
**OF TRANSALTA CORPORATION**

Pursuant to Rules 211, 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.211, 385.212 and 385.214 (2000), TransAlta Corporation ("TransAlta") hereby files this motion to intervene and protest in the two above-referenced dockets: (1) the supplemental filing submitted on October 23, 2000, in Docket No. RT01-35-000, by Avista Corporation, Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company (together, the "RTO West Utilities"), proposing the formation of a regional transmission organization ("RTO") referred to as RTO West, (the "RTO West Filing"),

made in response to Order No. 2000;<sup>1</sup> and (2) the filing on October 16, 2000, in Docket No. RT01-15-000, by Avista Corporation, The Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company (together, the "TransConnect Utilities") to establish TransConnect LLC ("TransConnect"), a for-profit transmission company (the "TransConnect Filing").

TransAlta requests that the Commission: (1) grant its Motion to Intervene in each of the above-referenced proceedings, and (2) withhold final acceptance of the RTO West and TransConnect proposals, pending the receipt in "Stage 2" of the additional documents and information that are needed to examine fully whether the filings meet the Commission's RTO requirements.

#### **I. MOTION TO INTERVENE**

In support of its motion to intervene, TransAlta states as follows:

TransAlta is an international corporation headquartered in Calgary, Alberta, Canada. TransAlta has generation facilities in Alberta, British Columbia and Washington State. TransAlta also has transmission facilities in Alberta. TransAlta's transmission facilities in Alberta have been operated under a restructured scheme since 1996, when a Transmission Administrator was established for the province of Alberta to grant access, set rates, and do planning for the transmission system in Alberta. As a transmission facility owner, TransAlta remains a regulated supplier of services to the Transmission Administrator and is compensated for providing the transmission facilities and services through regulated prices. TransAlta supports increased competition, and has participated in several regional markets, including the

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<sup>1</sup> *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000), *review pending sub nom. Pub. Util. Dis. No. 1 of Snohomish City, WA v. FERC*, Nos. 00-1174, et al. (D.C. Cir.).

Pacific Northwest market of the United States. In 1996, the Commission granted power marketer authorization to an affiliate of TransAlta, in Docket No. ER97-3802-000.

As an owner of generation within the RTO West boundaries, a marketer within the United States, and a transmission and generation owner in Alberta, TransAlta has a direct and substantial interest in these two dockets. TransAlta's interest in these proceedings cannot be represented adequately by any other party. TransAlta requests that the Commission grant TransAlta's request to intervene as a party to these proceedings, with all rights to participate in both Docket Nos. RT01-15-000 and RT01-35-000.

## II. COMMUNICATIONS

TransAlta requests that the following individuals be placed upon the official service list in this proceeding and receive all pleadings, correspondence and other communications concerning this docket.<sup>2</sup>

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<sup>2</sup> To the extent necessary, TransAlta respectfully requests that the Commission grant waiver of 18 C.F.R. § 385.203(b)(3), to permit service and communications to be made to more than two persons.

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### III. PROTEST

Representatives of TransAlta participated extensively in the discussions that took place earlier this year and that led to the RTO Filing. In particular, TransAlta participated in the stakeholder process known as the Regional Representatives Group. TransAlta generally supports the considerable efforts that have taken place, and the progress that has been made to date by the RTO West Utilities and other regional stakeholders, in developing an RTO for the Pacific Northwest. TransAlta hopes that the outcome of the process initiated by the RTO West Filing and the TransConnect Filing will be a significant enhancement of electric industry competition in the Pacific Northwest region. Access to regional markets through an independent RTO should facilitate more efficient trades and greater liquidity in the bulk power markets.

An affiliate of TransAlta has participated in a joint filing prepared with other independent power producers and power marketers, known as the Northwest IPPs/Marketers Group, which is separately filing comments in these dockets ("IPP/Marketers Comments"). TransAlta supports the IPP/Marketers Comments. In addition, as noted above, Alberta has already undertaken significant restructuring efforts and, as a result, the operation of TransAlta's transmission facilities have been transferred to an independent Transmission Administrator known as ESBI Alberta, Ltd. ESBI Alberta, the Power Pool of Alberta and the Alberta

Department of Resource Development are filing joint comments on the RTO West and TransConnect proposals today (the "Alberta Group Comments"), which TransAlta also supports.

Below, TransAlta highlights for the Commission's consideration certain issues of particular importance to TransAlta.

**A. *The Commission Should Withhold Final Approval of the RTO West and TransConnect Proposals Until Additional Filings are Made in Stage 2***

The RTO West and TransConnect filings are, by the RTO West Utilities' and the TransConnect Utilities' own admissions, incomplete. For example, the Commission and market participants do not have before them for review an RTO West tariff, specific rate treatment proposals, or specific information regarding the actual transmission facilities that would be subject to the operational control of RTO West. More information regarding these and many other features of RTO West will be critical in determining whether RTO West has met the Commission's RTO requirements. Nevertheless, at this juncture, without complete information, the Commission is being asked to approve certain aspects of the RTO West proposal.<sup>3</sup> The Commission should not provide its final approval of the RTO West governance documents that are the subject of RTO West's petition for declaratory order. Rather, the Commission should withhold any final acceptance of these proposals until the Stage 2 filings are submitted and the Commission can undertake a comprehensive review.

Similarly, the TransConnect Utilities ask for Commission approval at this juncture of two broad aspects of the TransConnect proposal: (i) a finding that TransConnect will meet the Commission's minimum requirements for independence; and (ii) acceptance of certain

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<sup>3</sup> In particular, RTO West requests acceptance of: (1) the form of First Restated Articles of Incorporation and Bylaws; (2) the scope and configuration of RTO West; and (3) the form of Agreement Limiting Liability Among RTO West Participants. RTO West Filing at 5.

functions pertaining to transmission expansion and planning and rate filing authority.<sup>4</sup> As with RTO West, however, there is insufficient detail in the TransConnect Filing for the Commission to make either finding at this time. TransConnect's filing is not adequately clear with regard to how its proposal would interact with the RTO West (*i.e.*, which entity would perform which RTO functions) to ensure that TransConnect will be truly independent, and will meet all RTO requirements for those functions that TransConnect will actually perform. In particular, because TransConnect seeks to retain some degree of control over the vitally important transmission planning and expansion function, the Commission should withhold action, until the Stage 2 filings, on the TransConnect Utilities' request that the TransConnect Filing meets the independence requirements of Order 2000.<sup>5</sup>

With respect to both the RTO West and TransConnect Filings, TransAlta looks forward to continuing to participate in the stakeholder process as these proposals develop, and to submitting more detailed comments when it has the opportunity to review the documents submitted in Stage 2. In the meantime, pending the submittal of these documents next spring, TransAlta urges the Commission to withhold any final acceptance of the documents that have been tendered for approval. In making this request, TransAlta does not seek to slow down the process of RTO formation. However, given the incomplete nature of the RTO West and TransConnect Filings, the Commission should not endorse a structure that is sufficiently incomplete so that it is impossible to evaluate the reasonableness of the filing and its

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<sup>4</sup> TransConnect Filing at 5.

<sup>5</sup> Withholding final acceptance of the TransConnect proposal seems especially appropriate in light of the fact that the TransConnect Utilities appear to retain some active ownership interests in TransConnect, as well as retention of certain voting rights. TransConnect Filing at 16-23. Even if the Commission determines that TransConnect meets the Commission's independence requirements, however, the TransConnect Filing also provides insufficient detail to determine whether TransConnect meets the remaining RTO requirements.

compatibility with any of the requirements of Order 2000.<sup>6</sup> Rather, the Commission should provide the initial guidance needed by the filing utilities to accomplish the prompt formation of truly independent governing boards that, once formed, should be responsible for future RTO West and TransConnect filings.

**B. *The Commission Should Encourage BC Hydro's Participation in RTO West***

Order 2000 recognized the significant importance of establishing an RTO with sufficient geographic scope and regional configuration so as to maximize trade over a large area and not perpetuate unnecessary barriers. The Commission also recognized that natural transmission boundaries do not necessarily coincide with international boundaries.<sup>7</sup> In the case of RTO West, the access of market participants in Alberta to the Pacific Northwest market is highly dependent upon facilities owned and operated by British Columbia Hydro and Power Authority ("BC Hydro").<sup>8</sup> BC Hydro has participated in the RTO West process and submitted a "Description of British Columbia Participation" as Attachment H to the RTO West filing.<sup>9</sup> In addition, on October 24, 2000, BC Hydro filed comments in Docket No. RT01-35-000, discussing the extent of its participation, and requesting "equal standing" in the RTO West formation process.<sup>10</sup> TransAlta urges the Commission to monitor closely the extent of BC Hydro's participation in RTO West and, to the extent feasible within the Commission's jurisdiction, encourage further participation of BC Hydro in the RTO West.

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<sup>6</sup> TransAlta fully reserves its right to supplement its comments in these dockets as the proposals develop with greater substantive detail.

<sup>7</sup> See Order 2000, slip op. at 261-62.

<sup>8</sup> The Alberta Group Comments explain in further detail that BC Hydro has control over the major transmission facilities that provide access to and from Alberta and the Pacific Northwest.

<sup>9</sup> The Alberta Power Pool, Alberta Resource Development and ESBI Alberta Ltd., filed a Description of Alberta Participation in Attachment I of the RTO West filing.

<sup>10</sup> See Initial Comments and Motion to Intervene of BC Hydro at 6-7.



While BC Hydro's initial comments do not make clear the scope of BC Hydro's desired participation in RTO West, it appears that BC Hydro seeks compatibility with the RTO West structure, particularly with respect to a proposed independent grid operator that would be formed in British Columbia, known as "BC IGO." BC Hydro's description of its participation in the RTO West filing represents that BC IGO would "meet the independence standards of Order No. 2000."<sup>11</sup> BC Hydro's statement appears to be a positive step that may ultimately facilitate regional, non-discriminatory transmission access across a broader geographic area. It will be important, however, that as BC Hydro's participation in RTO West becomes more clear in future filings, the Commission encourage to the greatest extent possible that BC Hydro meet all of the required characteristics and functions set forth in Order 2000. This would greatly enhance the development of a robust, competitive market in the Northwest region.

**C. *Additional Matters That Warrant Close Commission Scrutiny***

Because the RTO West Utilities and the TransConnect Utilities have omitted several of the most important features of their filings for final review and acceptance, TransAlta is not providing detailed comments on the many potential issues raised by these filings. However, TransAlta urges the Commission to examine closely the following issues, and avoid endorsing any aspects of the substantive tariff proposals described in the RTO West and TransConnect Filings until the actual tariffs and other documents are tendered for filing in Stage 2.

*1. Greater clarity is needed with respect to RTO West's proposal to impose "transfer charges."* The RTO West proposal discusses certain "transfer charges" for short-term

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<sup>11</sup> See RTO West Filing, Attach. H.

firm and non-firm transmission service.<sup>12</sup> The transferred charges require each participating transmission owner to pay to other participating transmission owners an amount equal to representative levels of the pre-RTO short-term firm and non-firm transmission revenues paid by the participating transmission owner and its affiliates before RTO West commences operations.

There is insufficient detail in this filing to determine precisely what is intended by this transfer charge proposal, particularly as it would be applied to additional transmission-owning entities that may join the RTO in the future. As indicated in the "Description of Alberta Participation" included as Attachment I of the RTO West Filing, Alberta transmission owners such as TransAlta may ultimately participate in RTO West. As a transmission asset owner potentially subject to the transfer charges discussed in the RTO West Filing, TransAlta is not satisfied that sufficient information exists to determine whether imposition of these charges would be just and reasonable.<sup>13</sup> Without receiving appropriate consideration in return, new transmission-owning members of RTO West should not be required to make up any "shortfall" in revenue that the RTO West Utilities are no longer receiving as a result of lost short-term firm and/or non-firm transmission service revenues. Because there is insufficient information to determine if the transfer charge proposal would be just and reasonable as applied to TransAlta or other potential transmission-owning entities that may join RTO West in the future, FERC should ensure that the RTO West tariff, when filed, does not contain transfer charge proposals that may

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<sup>12</sup> See RTO West Filing at 37.

<sup>13</sup> Any potential fairness problems associated with transfer charges that may be unreasonably applied to new transmission-owning members of RTO West would be compounded by the fact that RTO West proposes to "freeze" its proposed rate methodology through 2011. See RTO West Filing at 36.

be discriminatorily applied, and/or create possible barriers to participation in the RTO for potential new, transmission-owning entrants.<sup>14</sup>

2. *The RTO West filing does not provide sufficient information regarding its proposed congestion management mechanism.* Order No. 2000 requires an RTO to "ensure the development and operation of market mechanisms to manage congestion."<sup>15</sup> RTO West proposes to manage congestion through the issuance of transmission rights on "flowpaths," which are defined as those RTO grid facilities that are expected to have significant amounts of congestion. The RTO West Utilities, however, provide no details with regard to how such flowpaths will be determined, how or how often flowpaths will be redetermined, or how transmission rights will be allocated. The RTO West Utilities simply state that such information will be provided in the Stage 2 filing. The current RTO West filing simply does not present sufficient information on which to evaluate the flow-based congestion proposal.

Moreover, when reviewing the RTO West's congestion management proposal and the how it relates to the TransConnect Filing, the Commission should recognize that RTO West will be in the best position to plan the interconnection of new generation near load to address congestion problems. TransConnect, which will be a for-profit, transmission-owning entity, may have incentives to pursue only transmission options and to overbuild transmission facilities and "goldplate" its system. TransAlta urges the Commission to encourage the RTO West Utilities to further develop their congestion management proposal to include appropriate economic

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<sup>14</sup> The Commission has stated that its goal is "for all transmission-owning entities . . . to place their transmission facilities under the control of appropriate RTOs in a timely manner." Order No. 2000 at 4.

<sup>15</sup> Order No. 2000 at 380.

incentives that encourage the efficient location of generation in areas where such generation will help alleviate congestion.

3. *Non-discriminatory generator interconnection procedures should be established.* RTO West has not submitted any detailed proposals regarding the interconnection of existing and/or new generation within the region. The RTO West Filing states that it will submit in Stage 2 a Generation Integration Agreement that will specify basic interconnection and operational obligations.<sup>16</sup> RTO West should be required to specify in Stage 2 the procedures and requirements to be followed for the interconnection of new merchant generation in RTO West. These procedures should foster an efficient, streamlined process that will facilitate the interconnection of new generation to the grid on a non-discriminatory basis.

4. *Access to firm transmission rights should be enhanced.* As explained in greater detail in the IPP/Marketer Group filing, RTO West's proposal to manage congestion through the allocation of firm transmission rights ("FTRs") appears flawed because the incumbent utilities may effectively retain for their own use almost all available FTRs. The Commission should require implementation of a fair auction process to ensure that all market participants have access to FTRs. Without a significant improvement to this aspect of the RTO West's filing, it will be difficult to achieve a workably competitive market in the Pacific Northwest.

5. *The Commission should encourage the prompt filing of Stage 2 materials, and ultimate implementation of the RTO West.* TransAlta is concerned that the RTO West Utilities may unduly delay implementation of the proposed RTO. For example, the RTO West Utilities state that "it is not likely that RTO West will be able to assume control of facilities by

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<sup>16</sup> RTO West Filing at 91.

December 15, 2001."<sup>17</sup> While TransAlta appreciates the complexity of the issues presented by the RTO proposal, this early statement by the RTO West Utilities raises the concern that there may be undue delay in implementing this RTO. TransAlta reiterates its request that the Commission provide the initial guidance needed by the filing utilities to accomplish the prompt formation of truly independent governing boards that, once formed, would be responsible for subsequent RTO West filings. TransAlta requests that the Commission also take an active role in shaping the "timeline" for future RTO West filings in order to avoid delay on the part of the filing utilities to transfer operational control to the RTO.

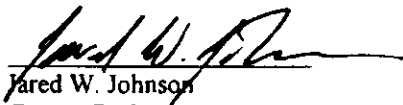
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<sup>17</sup> RTO West Filing at 92.

**IV. CONCLUSION**

WHEREFORE, TransAlta respectfully requests that the Commission: (i) grant its Motion to Intervene, and (ii) withhold final acceptance of all aspects of the RTO West and TransConnect proposals, pending the receipt in "Stage 2" of the additional documents and information that are needed to examine fully whether the filings meet the Commission's RTO requirements.

Respectfully submitted,



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Counsel for TransAlta Corporation

Dated: November 20, 2000

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have served the foregoing document via first class mail upon each person designated on the Official Service Lists established for these proceedings.

Dated in Washington, D.C. this 20<sup>th</sup> day of November, 2000.



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